



## Centers for Medicare & Medicaid Services

[Document Identifiers: CMS-437A and CMS-437B]

### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

**ACTION:** Notice.

**SUMMARY:** The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the *Federal Register* concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

**DATES:** Comments must be received by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to <http://www.regulations.gov>. Follow the instructions for "Comment or Submission" or "More Search Options" to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address:

CMS, Office of Strategic Operations and Regulatory Affairs

Division of Regulations Development

Attention: Document Identifier/OMB Control Number: \_\_\_\_\_

Room C4-26-05

7500 Security Boulevard

Baltimore, Maryland 21244-1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web Site address at Web Site address at

[https://www.cms.gov/Regulations-and-](https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing)

[Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing](https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing)

**FOR FURTHER INFORMATION CONTACT:** William N. Parham at (410) 786-4669.

**SUPPLEMENTARY INFORMATION:**

*Contents*

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS-437A and CMS-437B                      Rehabilitation Unit and Hospital Criteria Worksheet

Under the PRA (44 U.S.C. 3501-3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term "collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an

existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

### *Information Collection*

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Rehabilitation Unit and Hospital Criteria Worksheet; *Use:* Inpatient Rehabilitation Facility (IRF) hospitals and units must initially attest that they meet the Inpatient Prospective Payment System (IPPS) exclusion criteria set forth at 42 CFR §412.20 to §412.29 prior to being placed into IPPS exempt status. Form CMS-437A must be completed by IRF units and form CMS-437B must be completed by IRF hospitals.

For first time verification requests for exclusion from the IPPS, an IRF unit or hospital must notify the Regional Office (RO) servicing the State in which it is located that it believes it meets the criteria for exclusion from the IPPS. Currently, all new IRF units or hospitals must provide written certification that the inpatient population it intends to serve will meet the requirements of the IPPS exclusion criteria for IRFs. The completed CMS-437A and 437B forms are submitted to the State Agency (SA) no later than 5 months before the date the IRF unit or hospital would become subject to Inpatient Rehabilitation Facility Prospective Payment System (IRF-PPS). For IRF units and hospitals already excluded from the IPPS, annual onsite re-verification surveys by the SA are no longer required. IRF units and hospitals must now re-attest to meeting the exclusion criteria every 3 years thereafter.

IRF units and hospitals that have already been excluded need not reapply for exclusion. These facilities will automatically be reevaluated yearly to determine whether they continue to meet the exclusion criteria. For the tri-annual re-verification, IRF units and hospitals will be provided with a copy of the appropriate CMS-437 worksheet at least 5-months prior to the beginning of its cost reporting period, so that the IRF unit or hospital official may complete and sign an attestation statement and complete and return the appropriate form CMS-437A or CMS-437B at least 5-months prior to the beginning of the cost reporting period. However, Fiscal

Intermediaries (FIs) will continue to verify, on an annual basis, compliance with the 60 percent rule (42 CFR 412.29(b)(2)) for IRF units and hospitals through a sample of medical records and the SA will verify the medical director requirement.

The SA will notify the RO at least 60 days prior to the end of the IRF unit's or hospital's cost reporting period of the status of compliance or non-compliance with the payment requirements. The information collected on the 437A and 437B forms, along with other information submitted by the IRF is necessary for determining the IRF's IPPS exclusion status. We have revised the CMS-437A and 437B forms so that they more adequately reflect the regulatory requirements of §412.20 to §412.29. More specifically, we have updated the text in the 3<sup>rd</sup> column of the form, which tells the facility what actions must be taken and what information must be verified to receive IPPS excluded status.; *Form Number:* CMS-437A and CMS-437B (OMB control number: 0938-0986); *Frequency:* tri-annually; *Affected Public:* Private sector (Business or other for-profits); *Number of Respondents:* 497; *Total Annual Responses:* 497; *Total Annual Hours:* 497. (For policy questions regarding this collection contact Caroline Gallaher at 410-786-8705).

Dated: August 4, 2022.

**William N. Parham, III,**

*Director,*

*Paperwork Reduction Staff,*

*Office of Strategic Operations and Regulatory Affairs.*

**4120-01-U-P**

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